

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CHARLES WHITNEY,)
)
Plaintiff,) Civil Action No. 2: 12-cv-01623
)
v.) Chief United States District Judge
) Joy Flowers Conti
JOHN E. WETZEL, et al.,)
) United States Magistrate Judge
Defendants.) Cynthia Reed Eddy

ORDER

AND NOW, this 24th day of October, 2013, it is hereby **ORDERED, ADJUDGED AND DECREED** that for the reasons set forth in the accompanying memorandum opinion Defendants' Motion to Dismiss (ECF No. 29) is **GRANTED IN PART AND DENIED IN PART** as follows:

- (a) The Motion is **GRANTED** with respect to Plaintiff's claims under the First Amendment that his privileged mail was improperly opened;
- (b) The Motion is **GRANTED** with respect to Defendants' request to dismiss Defendants Wetzel, House, Switzer, Linderman, and Oppman based on lack of personal knowledge;
- (c) The Motion is **DENIED** with respect to Plaintiff's First Amendment Retaliation claim, his Eighth Amendment conditions of confinement claim, and his Fourteenth Amendment equal protection claim;

(d) The Motion is **DENIED** with respect to Defendants' request to dismiss Defendant Coleman.

It is further **ORDERED** that the Report and Recommendation (ECF No. 37) dated August 21, 2013, is **ADOPTED** as the opinion of the Court, as supplemented by the memorandum opinion accompanying this order.

It is further **ORDERED** that the remaining Defendants shall file a responsive pleading in accordance with Federal Rule of Civil Procedure 12(b)(4)(A).

It is further **ORDERED** that this matter is remanded back to the magistrate judge for all further pretrial proceedings.

BY THE COURT:

/s/ Joy Flowers Conti
Joy Flowers Conti
Chief, United States District Judge

cc: CHARLES WHITNEY
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